## FILED

April 08, 2024 CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

WESTE	KN DISTRICT OF TEXAS
BY:	NM

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DEPUTY

PATRICIA A. GONZALES,

Plaintiff,

v.

CIVIL NO. SA: 5:20-CV-00121-OLG

MARTIN O'MALLEY, COMMISSIONER OF SOCIAL SECURITY,<sup>1</sup>

Defendant.

## ORDER

The Court has considered United States Magistrate Judge Farrer's Report and Recommendation (R&R), filed December 15, 2023, concerning Plaintiff's Motion for Attorney Fees [#23] and Defendant's Response [#24] (See R&R, Dkt. No. 25.)

A party who wishes to object to a Magistrate Judge's findings and recommendations must serve and file specific written objections within fourteen days. FED. R. CIV. P. 72(b)(2). Plaintiff and Defendant, through counsel, were electronically served with a copy of the R&R on December 15, 2023, and timely filed their joint objection on December 27, 2023 (*see* Dkt. No. 26).

When a party objects to an R&R, the Court must make a de novo determination as to "any part of the magistrate judge's disposition that has been properly objected to." FED. R. CIV. P. 72(b)(3); see United States. v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989), cert. denied, 492 U.S. 918 (1989). Objections must be specific; frivolous, conclusory, or general objections need not be considered by the district court. Battle v. U.S. Parole Com'n, 834 F.2d 419, 421 (5th Cir. 1987) (quoting Nettles v. Wainwright, 677 F.2d 404, 410 n.8 (5th Cir. 1982), overruled on other grounds by Douglass v. U.S. Auto. Ass'n, 79 F.3d 1415 (5th Cir. 1996)). Any portions of the

<sup>&</sup>lt;sup>1</sup> As noted by the parties in the Joint Objection to the R&R (Dkt. No. 26), Martin O'Malley is the current acting Commissioner of Social Security on December 20, 2023. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Martin O' Malley should be substituted as the defendant in this suit.

Magistrate Judge's findings or recommendations that were not objected to are reviewed for clear error. *Wilson*, 864 F.2d at 1221.

The Court has reviewed the entirety of the R&R de novo and agrees with the Magistrate Judge's findings and recommendation. However, per the parties' Joint Objection to the R&R (Dkt. No. 26), the Court finds the Magistrate Judge's math is in error, and the correct amount owed to Plaintiff's counsel under 42 U.S.C. § 406(b) is \$10,839.53, which represents 25% of \$78,558.12, or \$19,639.53, minus the \$8,800 previously awarded under the Equal Access to Justice Act, 28 U.S.C. § 2412.

Accordingly, the Court **ACCEPTS** the Magistrate Judge's R&R (Dkt. No. 16) and, for the reasons set forth therein, Plaintiff's Motion for Attorney Fees (Dkt. No. 23) is **GRANTED**. Plaintiff's counsel is awarded \$10,839.53 in attorney's fees.

This case is **CLOSED**.

It is so **ORDERED**.

SIGNED this \_\_\_\_\_ day of April, 2024.

ORLANDO L. GARCIA United States District Judge